

30 CFR Part 730, 731, and 732 have been met.

### 3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(c)(C)).

### 4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

### 5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

### List of Subjects in 30 CFR Part 936

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 29, 1994.

**Charles E. Sandberg,**

*Acting Assistant Director, Western Support Center.*

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

### PART 936—OKLAHOMA

1. The authority citation for Part 936 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

2. Section 936.15 is amended by adding paragraph (n) to read as follows:

### § 936.15 Approval of regulatory program amendments.

\* \* \* \* \*

(n) Revisions to the following provisions of the Bond Release Guidelines, which include revegetation success standards and statistically valid sampling techniques, and guidelines for phase I, II, and III bond release, as submitted to OSM on February 17, 1994, and as revised and supplemented with explanatory information on July 21 and September 2, 1994, are approved effective January 10, 1995:

Subsection I.E.3.b, concerning requirements for ground cover on land reclaimed for commercial or industrial use;

Subsection I.F.3.d, concerning requirements for ground cover on previously mined areas;

Subsection I.F.5.b, concerning the requirements for water discharged from permanent impoundments, ponds, diversions, and treatment facilities;

Subsections II.B.2.d, III.B.2.d, and V.B.2.c, concerning the method for calculating a technical productivity standard on pastureland, grazingland, and prime farmland;

Subsections IV.A.1.a and b, and sections VII.A and B, concerning revegetation success standards for diversity, seasonality, permanence, and regeneration;

Subsections V.B.2.d and V.B.2.e, concerning the use of test plots as a statistically valid sampling technique for demonstrating success of productivity on prime farmlands;

Subsections V.B.2.f and VI.B.2.e, concerning the method for calculating a technical productivity standard for grain or hay crops on prime and nonprime farmland;

Subsection VI.B.2.e, concerning the method for measuring row crop production on nonprime farmland;

Appendix A, concerning the definitions of "initial establishment of permanent vegetative cover" and "productivity;"

Appendix F, concerning the method of sampling for productivity;

Appendices J and V, concerning editorial revisions; and

Appendix R, concerning the repair of rills and gullies as a normal husbandry practice;

Appendix O, concerning the methods for calculating technical productivity standards on lands reclaimed for use as pastureland and grazingland.

3. Section 936.16 is revised to read as follows:

### § 936.16 Required regulatory program amendments.

Pursuant to 30 CFR 732.17(f)(1), Oklahoma is required to submit to OSM

by the specified date the following written, proposed program amendment, or a description of an amendment to be proposed that meets the requirements of SMCRA and 30 CFR Chapter VII and a timetable for enactment that is consistent with Oklahoma's established administrative or legislative procedures.

(a) Reserved.

(b) Reserved.

(c) By March 13, 1995, Oklahoma shall revise sections II.B and III.B in the Bond Release Guidelines to identify the method it will use in developing a phase III revegetation success standard for diversity on lands reclaimed for use as pastureland and grazingland.

(d) Reserved.

(e) Reserved.

(f) Reserved.

(g) By March 13, 1995, Oklahoma must submit, before Oklahoma allows the use of test plots as proposed at subsections V.B.2.d and V.B.2.e in the Bond Release Guidelines, evidence of consultation with the U.S. Soil Conservation Service regarding the use of test plots as a statistically valid sampling technique for demonstrating success of productivity on prime farmlands.

[FR Doc. 95-568 Filed 1-9-95; 8:45 am]

BILLING CODE 4310-05-M

### 30 CFR Part 944

#### Utah Regulatory Program

**ACTION:** Proposed rule; reopening and extension of public comment period on proposed amendment.

**SUMMARY:** OSM is announcing receipt of additional explanatory information pertaining to a previously proposed amendment to the Utah regulatory program (hereinafter, the "Utah program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The additional explanatory information for Utah's proposed rule pertains to liability self-insurance requirements for coal mining operations. The amendment is intended to allow coal mining operators who qualify as government entities under the Utah Interlocal Cooperation Act and the Utah Governmental Immunity Act to provide a certain amount of their liability insurance through self-insurance.

**DATES:** Written comments must be received by 4:00 p.m., m.s.t., January 25, 1995.

**ADDRESSES:** Written comments should be mailed or hand delivered to Thomas E. Ehmett at the address listed below.

Copies of the Utah program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Albuquerque Field Office.

Thomas E. Ehmet, Acting Director,  
Albuquerque Field Office, Office of  
Surface Mining Reclamation and  
Enforcement, 505 Marquette Avenue,  
NW., Suite 1200, Albuquerque, New  
Mexico 87102

Utah Coal Regulatory Program, Division  
of Oil, Gas and Mining, 355 West  
North Temple, 3 Triad Center, Suite  
350, Salt Lake City, Utah 84180-1203,  
Telephone: (801) 538-5340.

**FOR FURTHER INFORMATION CONTACT:**  
Thomas E. Ehmet, Telephone: (505)  
766-1486.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background on the Utah Program**

On January 21, 1981, the Secretary of the Interior conditionally approved the Utah program. General background information, on the Utah program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Utah program can be found in the January 21, 1981, **Federal Register** (46 FR 5899). Subsequent actions concerning Utah's program and program amendments can be found at 30 CFR 944.15, 944.16, and 944.30.

##### **II. Proposed Amendment**

By letter dated October 4, 1994, Utah submitted a proposed amendment to its program pursuant to SMCRA (administrative record No. UT-979). Utah submitted the proposed amendment at its own initiative with the intention of allowing companies in the coal industry, if they so desire, to provide a certain amount of their liability insurance through self-insurance. The provision of the Utah Coal Mining Rules that Utah proposes to revise is Utah Administrative Rule (Utah Admin. R.) 645-301-890.400, Terms and Conditions for Liability Insurance.

OSM announced receipt of the proposed amendment in the October 21, 1994, **Federal Register** (59 FR 53123), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. UT-982). Because no one requested a public hearing or meeting, none was

held. The public comment period ended on November 21, 1994.

During its review of the amendment, OSM identified concerns relating to the provision of Utah's Coal Mining Rules at Utah Admin. R. 645-301-890.400. OSM notified Utah of the concerns by letter dated November 30, 1994 (administrative record No. UT-992). Utah responded in a letter dated December 16, 1994, by submitting additional explanatory information (administrative record No. UT-999).

In response to the issue letter, Utah proposes additional explanatory information with the intention of clarifying that Utah's proposed revision to Utah Admin. R. 645-301-890.400 will allow companies in the coal industry to provide a certain amount of their liability insurance through self-insurance only if they qualify as government entities under (1) a Utah statutory provision allowing for the creation by two or more public agencies of a separate legal or administrative entity at Utah Code Annotated (U.C.A.) § 11-13-5.5(2)(a) of the Utah Interlocal Cooperation Act and (2) a Utah self-insurance statutory provision at U.C.A. § 63-30-28 of the Utah Governmental Immunity Act.

##### **III. Public Comment Procedures**

OSM is reopening the comment period on the proposed Utah program amendment to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the additional materials submitted. In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Utah program.

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Albuquerque Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

##### **IV. Procedural Determinations**

###### **1. Executive Order 12866**

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

###### **2. Executive Order 12778**

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 12550) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

###### **3. National Environmental Policy Act**

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

###### **4. Paperwork Reduction Act**

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

###### **5. Regulatory Flexibility Act**

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

V. List of Subjects in 30 CFR Part 944

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 3, 1995.

Charles E. Sandberg,

Acting Assistant Director, Western Support Center.

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900-AH12

Exclusions from Income (RECA Payments)

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

**SUMMARY:** This document amends the Department of Veterans Affairs (VA) adjudication regulations concerning income and net worth exclusions. The purpose of the rule is to implement legislation excluding from consideration as countable income and net worth amounts paid to claimants under the Radiation Exposure Compensation Act (RECA). The intended effect of this amendment is to have VA regulations conform to the requirements of that statute.

**EFFECTIVE DATE:** This amendment is effective October 15, 1990, the date specified in Pub. L. 101-426.

**FOR FURTHER INFORMATION CONTACT:** Paul Trowbridge, Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, telephone (202) 273-7210.

**SUPPLEMENTARY INFORMATION:** Public Law 101-426, the Radiation Exposure Compensation Act (RECA), was enacted by Congress to compensate individuals who may have suffered adverse health effects from working in uranium mines or living downwind of above-ground nuclear tests. Section 6(h) of that law provides that RECA payments shall not be included as income or resources for

purposes of determining eligibility for benefits described in section 3803(c)(2)(C) of Title 31, United States Code. Title 31 U.S.C. 3803(c)(2)(C)(viii) lists benefits under chapters 11, 13 and 15 of Title 38, United States Code, which governs payment of VA benefits.

VA administers several income-based benefit programs under which a claimant's countable income determines the rate of VA benefits payable. Net worth may also affect eligibility. Those affected by RECA are death compensation (38 U.S.C. chapter 11), Parents' Dependency and Indemnity Compensation (38 U.S.C. chapter 13) and the Improved Pension program (38 U.S.C. chapter 15). Other VA benefits which are income-based, notably the prior pension programs known as the Section 306 and Old Law pension programs, are no longer authorized under those chapters of 38 U.S.C. listed in Public Law 101-426.

VA regulations at 38 CFR 3.271 state that payments of any kind from any source shall be counted as income for purposes of the Improved Pension program unless specifically excluded under 38 CFR 3.272. 38 CFR 3.261(a) indicates whether various categories of income are included or excluded when determining eligibility for Parents Dependency and Indemnity Compensation or pension programs which were in effect prior to January 1, 1979. It also indicates whether various categories of income are included or excluded when determining whether a parent qualifies as a dependent parent for purposes of 38 U.S.C. chapter 11. 38 CFR 3.274 states that Improved Pension shall be denied or discontinued when the corpus of a claimant's estate is such that it is reasonable that some of the estate be used for the claimant's maintenance.

We are amending 38 CFR 3.261, 3.262, and 3.272 to show that RECA payments are excludable from countable income for Parents' Dependency and Indemnity Compensation, the Improved Pension program, and in determining whether a parent is dependent for purposes of 38 U.S.C. chapter 11. We are amending 38 CFR 3.275 to show that

RECA payments are not to be included in computing an Improved Pension claimant's net worth. Net worth is not a factor for Parents' Dependency and Indemnity Compensation. The purpose of this rule is to amend the regulations to be consistent with the provisions of section 6 of Public Law 101-426.

This final rule is made effective without notice and comment since it makes changes merely to reflect statutory requirements.

The Secretary certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. This rule will directly affect VA beneficiaries but will not affect small businesses. Therefore, pursuant to 5 U.S.C. 605(b), this final regulation is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

The catalog of Federal Domestic Assistance program numbers are 64.104, 64.105, 64.109, and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Health care, Individuals with disabilities, Pensions, Veterans.

Approved: December 22, 1994.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR Part 3 is amended as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

**Authority:** 38 U.S.C. 501(a), unless otherwise noted.

2. In § 3.261, a new paragraph (a)(38) is added to read as follows:

§ 3.261 Character of income; exclusions and estates.

(a) *Income*

(38) Income received under Section 6 of the Radiation Exposure Compensation Act (Pub. L. 101-426)	Excluded	Excluded	Included	Included	3.262(w)

3. In § 3.262, paragraph (w) and its authority citation are added to read as follows:

§ 3.262 Evaluation of income.

(w) *Radiation Exposure Compensation Act.* For the purposes of parents' dependency and indemnity

compensation, there shall be excluded from income computation payments under Section 6 of the Radiation Exposure Compensation Act of 1990. (Authority: 42 U.S.C. 2210 note)